



MEMORANDUM

TO: Rep. James Lower, Chair and Local Government Committee Members

FROM: Michigan Association of County Drain Commissioners

DATE: September 26, 2018

RE: **MACDC SUPPORT FOR DRAIN CODE BILLS**

The Michigan Department of Agriculture and Rural Development (MDARD) provided MACDC with a grant to create a manual with updated procedures and information for drain commissioners for intercounty drains. During that process, both MDARD and MACDC noted several areas of the Drain Code requiring amendment to not only update language but to create consistency in the process for county and intercounty drains.

HB 6377

Current Law:

- The number of required signers for an application to establish a drainage district and for a petition to perform maintenance on a drain is different for intercounty drains than it is for county drains
- The number of signers for maintenance of a drain with pipe in excess of 36" in diameter is significantly higher than for a drain without this size of pipe.
- Does not clarify whether a drain commissioner can make decisions as the board of determination member during a necessity hearing for intercounty drains when the drain commissioner or a family member owns lands in the drainage district.

Proposed Changes:

- Makes the number of required signers for an application to establish a drainage district and for petitions to perform maintenance the same for county and intercounty drains.
- Makes the number of signatures for a maintenance petition the same regardless of the size of the pipe in the drain.
- Clarifies that a special commissioner must be appointed to sit in the place of a drain commissioner who owns lands (or has a family member that owns lands) in the drainage district.

HB 6376

Current Law:

- Provides that the percentages of cost apportionments between the counties for intercounty drains be determined in the First Order of Determination before the scope of the project is finalized.
- Does not clarify whether a drain commissioner can participate in decisions about the apportionments between counties for intercounty drains when the drain commissioner or a family member owns lands in the drainage district.
- The board of determination must determine whether a drain is necessary for the public health of a municipality for county drains during the necessity hearing, making the municipality subject to an at-large assessment. This process often confuses Board of Determination members. This is not part of the necessity hearing for intercounty drains, and the drain commissioner for each respective county makes the determination as to whether a municipality receives an at-large assessment.

Proposed Changes:

- Creates consistency for county and intercounty drain processes in that it allows the drain commissioner to determine what municipalities receive an at-large assessment for public health purposes for the drain.
- Clarifies that a special commissioner must be appointed to sit in the place of a drain commissioner who owns lands (or has a family member that owns lands) in the drainage district.
- Clarifies that the drainage district is responsible for attorney fees (similar language as provided for lake improvement boards in Part 309 of the NREPA).

HB 6375

Current Law:

Currently, county drains can be relinquished (transfer of jurisdiction) to a city, township or village if the entire drain and drainage district is in that city, township, or village. Any remaining funds for the drain are dealt with as if the drain were abandoned. There is currently no relinquishment process for intercounty drains established under Chapter 6, for the relinquishment of a portion of a drain, or for the relinquishment to a road commission or MDOT.

Proposed Changes:

- Allows for relinquishment of intercounty drains established under Chapter 6
- Allows for relinquishment of all or a portion of the drain
- Allows jurisdiction to be transferred to other entities like authorities, road commissions and MDOT
- Requires that any fund balance be transferred to the entity taking jurisdiction solely for the maintenance of the relinquished drain

HB 6374

Current Law:

Chapter 20 (county drains) and Chapter 21 (intercounty drains) currently provide a process for approval of plans and specifications, but does not require a description of the specific route and course of the drain that a drainage board is taking jurisdiction under for Chapter 20 and 21 Drains. The Final Order of Determination includes a requirement to list the route and course for drains established under Chapters 3/4 (county drains) and 5/6 (intercounty drains).

Proposed Changes:

This bill amends Chapters 20 and 21 to require the drainage boards to approve a route and course of the infrastructure that will be subject to their continuing jurisdiction.

